

Plagiarism and self-plagiarism – facts and myths

Justyna Ożegalska-Trybalska

Intellectual Property Law Chair, Jagiellonian University, Cracow, Poland

The problem of plagiarism and self-plagiarism is becoming more and more important in the context of the discussion on pathologies in science. Although in many cases these are reprehensible phenomena, the assessment of situations associated with these pejorative terms is not always justified. While using someone else's work (including, in particular, scientific publications) without the affiliation of authorship is an infringement of copyright moral rights, from a legal point of view, self-plagiarism is a neutral practice. The duplication of one's work or a significant part of it without a proper and clear reference to an earlier publication may be, however, considered an infringement of the principles of reliability and ethics in science. It may also have negative consequences for procedures for obtaining scientific degrees and titles. It also exposes the author of the self-plagiarism to a loss of scientific credibility and reputation.

Key words: plagiarism, self-plagiarism, unreliability in science, authorship

Introduction

Recently, a topic which is sometimes raises more attention than scientifically important research results, is cases of plagiarism and anti-plagiarism in the academic community, including in the medical field. Both phenomena, consisting of the duplication and/or multiplication of someone else's or one's own scientific work, is incentivised by a the system for evaluating scientific achievements, easy access to others publications in electronic form and wide publication opportunities in the growing number of journals in Poland and abroad. The verification of publications during procedures for obtaining scientific titles, and in some cases rather personal conflicts as opposed to those of a purely scientific basis, help to identify and publicise plagiarism and self-plagiarism cases.

The qualification and evaluation of such forms of "creativity" are not always conclusive and correct. The problem of unclarity in a decisive assessment is influenced by different circumstances relevant to assessments of particular case and by different approaches on plagiarism and self-plagiarism under copyright law, scientific reliability and publication standards. To avoid misunderstandings, it is necessary to systematise the situations

in which plagiarism or self-plagiarism is concerned. It is also important to indicate the consequences of such practices based on existing legislation and codes of ethics in science.

Is any reproduction of someone else's work a form of plagiarism?

Although commonly the term "plagiarism" refers to various forms of appropriation of someone else's creativity, it is not defined in legal texts. However, in copyright law, as an area appropriate for the protection of scientific works, it is understood as an infringement of the personal copyright to be recognised as an author of a work (Article 16 of the Act on Copyright and Related Rights of 14 February 1994. – hereinafter referred to as "author") [1]. Such action is threatened by civil and criminal liability (Articles 78 and 115 of the Copyright Act). The crime of plagiarism is prosecuted ex officio, which means that proceedings against the person who committed may be initiated even without the knowledge and will of the author whose copyright have been infringed.

To consider plagiarism under copyright law, the following conditions must be met:

How to cite:

Ożegalska-Trybalska J. *Plagiarism and self-plagiarism – facts and myths*. NOWOTWORY J Oncol 2021; 71: 70–72.

1. Whole or part of someone else's copyrighted work is reproduced by literally duplicating it (blatant plagiarism) or more often by modifying and camouflaging copied parts in their own publication (hidden plagiarism). The works from which the copied content is taken are monographs, scientific articles, presentations, studies, lectures, conference presentations.
2. Unauthorised misappropriation of someone else's work takes place where there is an attribution of the authorship of another person's work or parts of it. This takes place when such copying does not allow the reader to recognise who the actual author is, and therefore suggests that the author is the person whose name is attributed to the work. This situation can be avoided if copying takes place under provisions of copyright fair use, namely the so-called right of quotation, which under certain conditions allows the multiplication of other author's fragments of works, but with the clear indication of source and authorship [2].
3. A work containing plagiarised content is disseminated (made available to the public).

In practice, not all publishing and scientific activities that reproduce the work of others, even if ethically questionable, constitute plagiarism under copyright law. Often, situations in which the research results, static data, research ideas, discoveries, etc. are taken from someone else's publication are wrongly qualified as plagiarism. As such, they are not subject to copyright protection and do not involve protection of authorship. It does not mean, however, that the misappropriation of someone else's scientific results in one's own publications without indicating the authorship of the original source is acceptable and allowed. Such a practice may constitute the basis for an allegation of infringement of personal rights in the form of the right to scientific creation under the provisions on the protection of personal rights (Articles 23 and 24 of the Civil Code). In the context of scientific activity, the consequence of finding such abuse may be disciplinary proceedings based on the provisions of the Act of 20 July 2018 – the Law on Higher Education and Science [3]. Also, recommended, but not legally binding, the Code of Ethics for Researchers developed by the Commission on Ethics in Science treats all forms of unreliable use of someone else's creativity as a gross violation of the principles of ethics in scientific activity [4]. According to the explanation contained in the Code of Ethics in Science, "committing plagiarism consists of appropriating someone else's ideas, research results or words without correctly mentioning the source, which constitutes an infringement of intellectual property rights". This statement may be misleading since such creations are explicitly excluded from protection under intellectual property law, including copyright (Article 2 of the Copyright Act). There is, therefore, an apparent inconsistency in the classification of the plagiarism in the light of copyright law and standards of scientific reliability. This may lead to confusion for both scientists and the bodies responsible for the proper

assessment of the use of various forms of re-using someone else's work from a legal and ethical point of view.

Is self-plagiarism not the plagiarism?

Misunderstandings about legal qualification also apply to self-plagiarism, that is to say, the re-use, or even repeated publication, of the same work or part of it – including the results and scientific findings of previous publications.

Although the term itself refers to plagiarism and suggests that it is an activity that should be judged on the same basis and consequently considered prohibited as plagiarism, from a copyright perspective, "self-plagiarism" of ownworks is neutral. An author may (by executing his copyright moral right to authorship) indicate his name at all (also subsequent, even similar works). In such a case, there is no misrepresentation of authorship – which is the essence of plagiarism as a form of infringement of copyright moral rights.

However, various practices known as self-plagiarism may create the wrong image of scientific achievements and the originality of all the publications. Thus, self-plagiarism, like plagiarism, is treated as an act that violates the principles of scientific integrity and ethics. Such a critical assessment is based on the unjustified benefits of artificially duplicated scientific output as the basis for obtaining a title and degree in procedures where the number of publications is one of the important criteria for its evaluation.

Such "recycling of scientific publications" is also ethically questionable from the point of view of misleading readers as to the validity, relevance and credibility of scientific studies. Such an author's action is treated as a breach of readers' confidence in the reliability of scientific findings, research and publications [5]. It is of particular importance in medical science, where the results of milestone studies for treatment methods, diagnosis of diseases, risks associated with treatment, etc. are described. The double publication of original studies is particularly problematic. It can falsify data and distort test results (result in double-counting of data or incorrect weighting of individual test results).

In any case, the qualification of self-plagiarism as a reprehensible action should be judged carefully [6]. Expertise in narrow fields of science inevitably leads to dealing with specific problems in one's research, the description of which in different contexts or the publication in an updated or extended form should not in itself be questioned. Only situations in which the reproduction of the same scientific work or parts of it in different languages, under different titles, in different journals, should be considered problematic and unreliable when it is made without clearly indicating that the text in question has already been disseminated and/or published in the same or modified form. Repeated publication of the same or similar article or its parts is acceptable from copyright point of view. It may be considered unreliable and be questioned as a scientific misconduct, if the subsequent publication of an earlier

article does not contain a reference to the earlier publication (suggests that it is the first and original publication).

The absence of such an explicit reference may result in the same text being counted as several separate publications or involve scientifically unreliable suggestions of novelty. It may also harm the rights and interests of the publishers of earlier publications, including the infringement of their economic rights to the work, acquired from the author in the case of an earlier publication. Such conduct may result in the simultaneous publication of an identical text by competing publishers, which deprives it of its originality.

For the above reasons, European and national guidelines for the scientific community [7] and publication policies for scientific journals, including the current recommendations of The International Committee of Medical Journal Editors [8], introduce requirements for authors to reduce the duplication of publications. According to them, it is the responsibility of the author:

- to inform the publisher (editor) of other identical published works or manuscripts that have been prepared for and/or published in other journals, or
- to make a declaration of the originality of the article and the absence of any previous publication.

Medical journals do not consider the prior publication of clinical trial results in relevant databases or registers (however, a reference to this fact is recommended).

Earlier publication of preliminary or partial research results should not limit later publication based on such results. In this case, the consent of the publisher of the original publication could be required. (e.g., publisher of preliminary study report, preprint, abstract or poster presented at a scientific conference where research results were presented).

How to publish in accordance with the law, the principles of integrity and ethics in science?

Given the increasing number of scientific studies and the more common monitoring of manifestations of unreliability in science, it is important to observe the following principles of lawful publication and the principles of integrity and ethics in science.

1. The use of even small fragments of someone else's publication without respecting conditions of the right to quote and attribute authorship is a violation of copyright moral rights (plagiarism). Also, by the multiplication of fragments of work, the economic rights are often infringed. It may have legal consequences in the form of civil and criminal liability under copyright law.
2. As a rule, an infringement is not self-plagiarism, i.e., the re-use of one's earlier publications in a different way, in a parallel publication or another language version. In the case of previous transfer of economic copyrights to the original publication to the publishing house, such an action may result in copyright infringement and civil liability.
3. Repeatable publication of the content published in other journals may be justified in some situations, and even bene-

ficial for a given field (e.g., in the case of secondary analysis of data from clinical trials). To ensure that the publication of the same work or an essential part of it does not lead to an accusation of unreliability in science or a violation of publication ethics and publishing standards, the work should:

- include a clear and visible reference to the previous study,
- provide information that there are secondary analyses or test results,
- take place with the consent of the publishing house (editors) responsible for the original publication.

The studies and publications which are similar to a significant extent should be included on the list of scientific achievements only once [9].

4. Accepting and not disclosing cases of plagiarism is an example of pathology in science. However, the public dissemination of allegations of plagiarism or self-plagiarism against other authors should be preceded by a careful verification of all circumstances. As shown, they do not always meet the criteria of copyright infringement and/or unlawful or reprehensible coping, whereas hasty judgments and harsh assessments may result in the loss of the author's credibility and scientific reputation. Also, integrity and caution in the formulation of decisions regarding the discussed offences should be regarded as good practice and an element of ethics in science.

Conflict of interest: none declared

Justyna Ożegalska-Trybalska

Jagiellonian University

Intellectual Property Law Chair

ul. Józefa 19

31-056 Kraków, Poland

e-mail: j.ozegalska-trybalska@uj.edu.pl

Received and accepted: 6 Nov 2020

References

1. Dz. U. z 2019 r. poz. 1231 z późn. zm.
2. Ożegalska-Trybalska J. The copyright fair use in scientific and publication activities. *NOWOTWORY J Oncol.* 2020; 70(5): 220–223, doi: 10.5603/NJO.2020.0043.
3. Dz. U. 2018 poz. 1668.
4. Uchwalony przez Zgromadzenie Ogólne Polskiej Akademii Nauk w 2016 r. <https://instytucja.pan.pl/index.php/kodeks-etyki-pracownika-naukowego> (28.12.2020).
5. Roig M. Plagiarism and self-plagiarism: What every author should know. *Biochemia Medica.* 2010; 20(3): 299.
6. Stanisławska-Kloc S. Plagiat contra autoplagiat. In: Matlak A, Stanisławska-Kloc S. ed. *Spory o własność intelektualną. Księga jubileuszowa dedykowana Profesorom Januszowi Barcie i Ryszardowi Markiewiczowi.* Warszawa 2013: 1093.
7. The European Code of Conduct for Research Integrity. https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/horizon/guidance/european-code-of-conduct-for-research-integrity_horizon_en.pdf (2.12.2020).
8. Recommendations for the Conduct, Reporting, Editing, and Publication of Scholarly Work in Medical Journals updated December 2019. <http://www.icmje.org/icmje-recommendations.pdf> (28.12.2020).
9. *Kodeks etyki w nauce*, op. cit. s. 11.